

Introduced by Senator Burton

December 7, 1998

An act to amend Sections 16301.6, 16301.8, and 16302.1 of the Government Code, relating to state finance.

LEGISLATIVE COUNSEL'S DIGEST

SB 27, as introduced, Burton. State debt collection and loan repayment.

Existing law authorizes the Controller to discharge any state agency or employee from accountability for the collection of taxes, licenses, fees, or money if the debt is uncollectible or the amount of the debt does not justify the cost of its collection. Existing law also authorizes a state agency not to collect these moneys if the amount involved is \$250 or less and the amount owed is uncollectible or does not justify the cost of collection. The Controller is authorized to adopt rules and regulations to permit state agencies to retain overpayments made to those agencies where a demand for refund is not made within 6 months after the refund becomes due.

This bill would grant this authority to the Board of Control instead of the Controller.

Under existing law, as set forth in the annual Budget Act, funds are appropriated for the support of various state government entities.

This bill would require, for each of the fiscal years 1999–2000 to 2008–09, inclusive, that the Controller transfer to the General Fund, from a specified appropriation, an amount equal to 10% of an amount that was loaned in 1998 to fund

certain contributions to the Public Employees Retirement System.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 16301.6 of the Government
2 Code is amended to read:

3 16301.6. (a) Any state agency or employee required
4 to collect any state taxes, licenses, fees, or money owing
5 to the state for any reason that is due and payable may be
6 discharged by the ~~Controller~~*Board of Control* from
7 accountability for the collection of the taxes, licenses,
8 fees, or money if the debt is uncollectible or the amount
9 of the debt does not justify the cost of its collection.

10 (b) The application for a discharge under this section
11 shall be filed with the ~~Controller~~*Board of Control* and
12 includes all of the following:

13 (1) A statement of the nature and amount of the tax,
14 license, fee, or other money due.

15 (2) The names of the persons liable.

16 (3) The estimated cost of collection.

17 (4) All other facts warranting the discharge, unless the
18 ~~Controller~~*Board of Control* determines that the
19 circumstances do not warrant the furnishing of detailed
20 information.

21 (c) The ~~Controller~~*Board of Control* shall audit the
22 applications and discharge the applicant from further
23 accountability for collection and authorize the applicant
24 to close its books on that item if the ~~Controller~~*Board of*
25 *Control* determines all of the following:

26 (1) The matters contained in the application are
27 correct.

28 (2) No credit exists against which the debt can be
29 offset.

30 (3) Collection is improbable for any reason.

31 (4) The cost of recovery does not justify the collection.

32 (5) For items that exceed the monetary jurisdiction of
33 the small claims court, the Attorney General has advised,

1 in writing, that collection is not justified by the cost or is
2 improbable for any reason.

3 SEC. 2. Section 16301.8 of the Government Code is
4 amended to read:

5 16301.8. In addition to a discharge from
6 accountability pursuant to Section 16301.6, a state agency
7 is not required to collect taxes, licenses, fees, or money
8 owed to the state if the amount to be collected is two
9 hundred fifty dollars (\$250) or less and the amount owed
10 to the state is uncollectible or does not justify the cost of
11 collection. This authority may be revoked by the
12 ~~Controller if he or she~~ *Board of Control if the board* finds
13 that the agency abused its discretion to refrain from
14 collecting taxes, licenses, fees, or money owed to the state.
15 Nothing contained in this section shall be construed as
16 releasing any person from the payment of any money due
17 the state.

18 SEC. 3. Section 16302.1 of the Government Code is
19 amended to read:

20 16302.1. Whenever any person pays to any state
21 agency pursuant to law an amount covering taxes,
22 penalties, interest, license or other fees, or any other
23 payment, and it is subsequently determined by the state
24 agency responsible for the collection thereof that this
25 amount includes an overpayment of ten dollars (\$10) or
26 less of the amount due the state pursuant to the
27 assessment, levy, or charge to which the payment is
28 applicable, the amount of the overpayment may be
29 disposed of in either of the following ways:

30 ~~(1)–~~

31 (a) The state agency responsible for the collection to
32 which the overpayment relates may apply the amount of
33 the overpayment as a payment by the person on any
34 other taxes, penalties, interest, license or other fees, or
35 any other amount due the state from that person if the
36 state agency is responsible by law for the collection to
37 which the overpayment is to be applied as a payment.

38 ~~(2)–~~

39 (b) Upon written request of the state agency
40 responsible for the collection to which the overpayment

1 relates, the amount of the overpayment shall, on order of
2 the Controller, be deposited as revenue in the fund in the
3 State Treasury into which the collection, exclusive of
4 overpayments, is required by law to be deposited.

5 The ~~Controller~~ *Board of Control* may adopt rules and
6 regulations to permit state agencies to retain these
7 overpayments where a demand for refund permitted by
8 law is not made within six months after the refund
9 becomes due; and the retained overpayments shall
10 belong to the state.

11 Except as provided in the foregoing paragraph, this
12 section shall not affect the right of any person making
13 overpayment of any amount to the state to make a claim
14 for refund of the overpayment, nor the authority of any
15 state agency or official to make payment of any amount
16 so claimed, if otherwise authorized by law.

17 SEC. 4. For each of the fiscal years 1999–2000 to
18 2008–09, inclusive, the Controller shall transfer to the
19 General Fund, from the appropriation made in Item
20 0110-001-0001 of Section 2.00 of the annual Budget Act, an
21 amount equal to 10 percent of the total amount that,
22 pursuant to a Department of Finance loan authorization
23 letter of June 8, 1998, was loaned in augmentation of that
24 item for the purpose of funding contributions pursuant to
25 Section 20822 or former Section 20751 of the Government
26 Code. Notwithstanding any other provision of law, the
27 transfers made pursuant to this section are hereby
28 deemed to fully satisfy all obligations to make repayment
29 of that loan.

